

110TH CONGRESS
2D SESSION

S. 3116

To amend title XVIII of the Social Security Act to stabilize and modernize the provision of partial hospitalization services under the Medicare program, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 11, 2008

Mr. VITTER introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend title XVIII of the Social Security Act to stabilize and modernize the provision of partial hospitalization services under the Medicare program, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Outpatient Mental
5 Health Modernization Act of 2008”.

1 **SEC. 2. TRANSITIONAL FREEZE ON CERTAIN MEDICARE**
 2 **HOSPITAL OUTPATIENT FEE SCHEDULE**
 3 **AMOUNTS.**

4 Notwithstanding any other provision of law, effective
 5 for episodes and visits beginning on or after January 1,
 6 2009, and before January 1, 2010, in the case of partial
 7 hospital services (as defined in section 1861(ff)(1) of the
 8 Social Security Act (42 U.S.C. 1395x(ff)(1))), the OPD fee
 9 schedule increase factor under section 1833(t)(3)(C)(iv) of
 10 the Social Security Act (42 U.S.C. 1395l(t)(3)(C)(iv)) for
 11 the medicare OPD fee schedule amount established for
 12 such services (as published in the Federal Register on No-
 13 vember 27, 2007 (72 Fed. Reg. 66670)) shall be zero.

14 **SEC. 3. ACCREDITATION PROGRAM FOR COMMUNITY MEN-**
 15 **TAL HEALTH CENTERS PROVIDING PARTIAL**
 16 **HOSPITALIZATION SERVICES.**

17 Section 1833(t) of the Social Security Act (42 U.S.C.
 18 1395l(t)) is amended by adding at the end the following
 19 new paragraph:

20 “(18) ACCREDITATION PROGRAM FOR COMMU-
 21 NITY MENTAL HEALTH CENTERS PROVIDING PAR-
 22 TIAL HOSPITALIZATION SERVICES.—

23 “(A) DEFINITIONS.—In this section:

24 “(i) ACCREDITATION ORGANIZA-
 25 TION.—The term ‘accreditation organiza-
 26 tion’ means an organization designated by

the Secretary under subparagraph (C)(i)(II) to accredit community mental health centers providing partial hospitalization services.

“(ii) PARTIAL HOSPITALIZATION SERVICES.—The term ‘partial hospitalization services’ has the meaning given such term in section 1861(ff)(1).

“(iii) PHYSICIAN.—Except as otherwise provided by the Secretary, the term ‘physician’ means any individual who furnishes services for which payment may be made under the physician fee schedule under section 1848.

“(iv) PHYSICIAN SPECIALTY ORGANIZATION.—The term ‘physician specialty organization’ means a United States medical specialty society that represents diplomats certified by a board recognized by the American Board of Medical Specialties.

“(B) ESTABLISHMENT.—Not later than January 1, 2010, subject to the succeeding provisions of this paragraph, the Secretary shall, by regulation, establish an accreditation program which requires the accreditation of com-

community mental health centers providing partial hospitalization services.

“(C) DESIGN OF ACCREDITATION PROGRAM.—

“(i) IN GENERAL.—Each community mental health center providing partial hospitalization services for which payment is made under the prospective payment system established under this subsection must be accredited for each program under which such services are furnished by the community mental health center by an accrediting organization designated by the Secretary under clause (ii).

“(ii) ACCREDITATION ORGANIZATIONS.—

“(I) IN GENERAL.—The Secretary shall, by regulation, designate entities to accredit community mental health centers providing partial hospitalization services. The entities designated under the preceding sentence shall include the Joint Commission on Accreditation of Hospitals and the

Commission on Accreditation of Rehabilitation Facilities.

“(II) CONSULTATION.—In designating entities under subclause (I), the Secretary shall consult with academic medical centers, community mental health centers, hospitals, and other appropriate medical personnel (such as psychologists, social workers, and nurse specialists).

“(iii) CONSIDERATIONS.—In designating entities under clause (ii), the Secretary shall consider the following:

“(I) The ability of the entity to conduct timely reviews of accreditation applications.

“(II) Whether the entity has established a process for the timely integration of new services and clinical interventions for individuals who are furnished partial hospitalization services.

“(III) Any other factors the Secretary determines appropriate.

1 “(iv) USE OF CRITERIA FOR ACCREDI-
2 TATION.—Accreditation organizations shall
3 use appropriate criteria for evaluating
4 community mental health centers providing
5 partial hospitalization services for purposes
6 of the accreditation of such community
7 mental health centers, including criteria
8 with respect to—

9 “(I) the qualifications of non-
10 physician medical personnel;

11 “(II) the qualifications and re-
12 sponsibilities of physicians, including
13 supervising physicians;

14 “(III) the establishment of proce-
15 dures for ensuring patient safety; and

16 “(IV) quality assurance report-
17 ing.

18 “(v) INCORPORATION OF QUALITY
19 MEASURES.—Not later than January 1,
20 2012, the Secretary shall provide for the
21 incorporation of measures selected for pur-
22 poses of quality reporting under paragraph
23 (19) into the accreditation program estab-
24 lished under this paragraph, including the

1 use of such measures in the criteria for ac-
2 creditation under clause (iv).

3 “(vi) REVIEW OF ACCREDITATION OR-
4 GANIZATIONS.—The Secretary, in consulta-
5 tion with the entities and individuals de-
6 scribed in clause (ii)(II)—

7 “(I) shall conduct an annual re-
8 view of accreditation organizations
9 designated under clause (ii); and

10 “(II) may, by regulation, expand
11 the original list of accreditation orga-
12 nizations so designated.

13 “(D) EVALUATION AND REPORT.—

14 “(i) EVALUATION.—The Secretary
15 shall contract with an independent, private
16 organization or entity to evaluate the effect
17 of the accreditation program established
18 under this paragraph and other relevant
19 questions involving access to and value of
20 partial hospitalization services furnished to
21 individuals under this part. Such evalua-
22 tion shall examine the following:

23 “(I) The impact of accreditation
24 requirements on the number, type,
25 and quality of partial hospitalization

1 services furnished to individuals under
2 this part.

3 “(II) The cost of meeting such
4 accreditation requirements, including
5 an examination of compliance costs to
6 community mental health centers pro-
7 viding partial hospitalization services
8 and administrative costs to the Sec-
9 retary.

10 “(III) The access of individuals
11 under this part to partial hospitaliza-
12 tion services, especially in rural areas,
13 before and after implementation of
14 the accreditation program.

15 “(IV) Any other matters the Sec-
16 retary determines appropriate.

17 “(ii) REPORT.—Not later than De-
18 cember 31, 2012, the Secretary shall sub-
19 mit a report to Congress on the evaluation
20 conducted under clause (i).

21 “(E) WAIVER AUTHORITY.—The Secretary
22 shall waive compliance with the requirements of
23 this title to such extent and for such period as
24 the Secretary determines is necessary to carry
25 out this paragraph.”.

SEC. 4. QUALITY IMPROVEMENT FOR PARTIAL HOSPITALIZATION SERVICES PROVIDED BY COMMUNITY MENTAL HEALTH CENTERS.

Section 1833(t) of the Social Security Act (42 U.S.C. 1395l(t)), as amended by section 3, is amended by adding at the end the following new paragraph:

“(19) QUALITY REPORTING FOR PARTIAL HOSPITALIZATION SERVICES PROVIDED BY COMMUNITY MENTAL HEALTH CENTERS.—

“(A) REDUCTION IN UPDATE FOR FAILURE TO REPORT.—For purposes of paragraph (3)(C)(iv) for 2009 and each subsequent year, in the case of a community mental health center providing partial hospitalization services (as defined in section 1861(ff)(1)) that does not submit, to the Secretary in accordance with this paragraph, data required to be submitted on measures selected under this paragraph with respect to such a calendar year, the OPD fee schedule increase factor under paragraph (3)(C)(iv) for such year shall be reduced by 1.0 percentage point. A reduction under the preceding sentence shall apply only with respect to the year involved and the Secretary shall not take into account such reduction in computing

the OPD fee schedule increase factor for a subsequent calendar year.

“(B) FORM AND MANNER OF SUBMISSION.—

“(i) IN GENERAL.—Subject to clause (ii), each community mental health center providing partial hospitalization services shall submit to the Secretary data on measures selected under this paragraph in a form and manner, and at a time, specified by the Secretary for purposes of this paragraph.

“(ii) GRACE PERIOD FOR SUBMISSION IN 2011.—In the case of such data submitted with respect to 2011, the Secretary shall provide for a 30-day grace period for the submission of such data by a community mental health center providing partial hospitalization services.

“(C) DEVELOPMENT OF MEASURES.—

“(i) IN GENERAL.—The Secretary shall select measures that the Secretary determines appropriate for the measurement of the quality of care provided by community mental health centers providing

1 partial hospitalization services, including,
2 beginning with 2011, measures for a set of
3 5 indicators established by the Secretary.

4 “(ii) ADDITIONAL MEASURES.—The
5 Secretary shall expand, beyond the meas-
6 ures selected under clause (i) and con-
7 sistent with the succeeding provisions of
8 this paragraph, the set of measures that
9 the Secretary determines appropriate for
10 the measurement of the quality of care
11 provided by community mental health cen-
12 ters providing partial hospitalization serv-
13 ices.

14 “(iii) CONSENSUS MEASURES.—Begin-
15 ning with 2009, the Secretary shall add
16 additional measures that reflect consensus
17 among affected parties and, to the extent
18 feasible and practicable, shall include
19 measures set forth by 1 or more national
20 consensus building entities.

21 “(D) REPLACEMENT OF MEASURES.—For
22 purposes of this paragraph, the Secretary may
23 replace any measures or indicators in appro-
24 priate cases, such as where all community men-
25 tal health centers providing partial hospitaliza-

tion services are effectively in compliance or the measures or indicators have been subsequently shown not to represent the best clinical practice.

“(E) AVAILABILITY OF DATA.—The Secretary shall establish procedures for making data submitted under this paragraph available to the public. Such procedures shall ensure that a community mental health center providing partial hospitalization services has the opportunity to review the data that are to be made public with respect to the community mental health center prior to such data being made public. The Secretary shall report quality measures of process, structure, outcome, patients’ perspectives on care, efficiency, and costs of care that relate to partial hospitalization services on the Internet website of the Centers for Medicare & Medicaid Services.”.

SEC. 5. ESTABLISHING MINIMUM NUMBER OF SERVICE UNITS.

(a) IN GENERAL.—Section 1861(ff)(3)(A) of the Social Security Act (42 U.S.C. 1395x(ff)(3)(A)) is amended—

1 (1) by striking “, and” and inserting a comma;
2 and

3 (2) by inserting before the period at the end “,
4 and which provides a minimum of 4 units of items
5 and services described in paragraph (2)”.

6 (b) EFFECTIVE DATE.—The amendments made by
7 this section shall take effect on January 1, 2011.

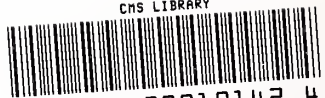
8 **SEC. 6. COST-REPORTS OF PROVIDERS OF PARTIAL HOS-**
9 **PITALIZATION SERVICES.**

10 (a) IN GENERAL.—The Secretary shall require fiscal
11 intermediaries under the Medicare program under title
12 XVIII of the Social Security Act to file the cost reports
13 of providers of partial hospitalization services (as defined
14 in section 1861(ff)(1) of the Social Security Act (42
15 U.S.C. 1395x(ff)(1)) into the Healthcare Provider Cost
16 Reporting Information System (ICRIS) maintained by
17 the Centers for Medicare & Medicaid Services.

18 (b) FUNDING.—Out of any funds in the Treasury not
19 otherwise appropriated, there are appropriated
20 \$1,000,000 to the Secretary of Health and Human Serv-
21 ices for calendar year 2009 to carry out this section.

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